

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
HUNTINGTON DIVISION**

JOHN DOE,

Plaintiff,

Civ. Action No. 3:22-cv-00346

v.

**MARSHALL UNIVERSITY
BOARD OF GOVERNORS; and,
DEBRA HART, in her individual and official
capacity,**

Defendants.

**JOINT MOTION TO VACATE CURRENT
SCHEDULING ORDER AND CONTINUE TRIAL DATE**

Defendants, by and through counsel, Perry W. Oxley, J. Jarrod Jordan, Christopher K. Weed, and the law firm of Oxley Rich Sammons, PLLC, as well as Plaintiff, by and through counsel, Ryan M. Donovan, Kayla S. Reynolds, and the law firm of Hissam Forman Donovan Ritchie, PLLC, hereby jointly submit this Motion to Vacate the Court's March 20, 2024, Scheduling Order and Continue the Trial Date for this matter approximately six (6) months. The reasons for this joint request are as follows:

1. Plaintiff previously completed in-patient treatment in Florida and is poised to return to school for the new academic year at Marshall University in the coming weeks.
2. The parties have jointly agreed that it is best for all parties involved that the parties attempt to mediate this matter in good faith in an effort to resolve the claims set forth in Plaintiff's Amended Complaint without the parties incurring additional litigation expenses, including expenses related to completing depositions and obtaining expert witness reports.

3. This early mediation has not been set by the parties to date because of recent internal changes with the insurance carrier, which have now been completed.

4. The parties intend on scheduling mediation with Donald B. O'Dell by the end of November 2024.

5. Vacating the current Scheduling Order will allow the parties to attempt to resolve this matter via mediation without incurring additional litigation expenses.

6. A continuance of this matter will also allow the Plaintiff—and many material witnesses, who are also Marshall students and faculty—to be deposed during Marshall's winter break, rather than having to engage in litigation activities while school is in session, should the case not resolve through mediation.

7. Further, a continuance will also allow Plaintiff to undergo an Independent Psychological Examination ("IPE") during his winter break from school rather than having to engage in an IPE while school is in session, should the case not resolve at mediation.

8. All parties have agreed to mediate this matter, and there are no objections to the continuance of the current Scheduling Order by any party.

9. Similarly, all parties have agreed to continue the current trial date that is set for February 4, 2025, for approximately six (6) months, pending the Court's availability for the same.

10. Additionally, on July 19, 2024, Plaintiff served his *First Set of Interrogatories and Third Set of Requests for Production of Documents to Defendant Marshall University Board of Governors* and his *First Set of Interrogatories and Third Set of Requests for Production of Documents to Defendant Debra Hart*.

11. In order to prevent unnecessary costs and expenses from being expended in responding to these written discovery requests before any mediation occurs in this matter, the

parties have jointly agreed that—should the Court Grant this motion for continuance—the Responses to these written discovery requests will not be due until 30 days after the attempted mediation concludes if the claims are not resolved via mediation.

WHEREFORE, the parties request that the Court grant this Joint Motion to Vacate the Court’s Scheduling Order and Continue the Trial Date in order to allow the parties to engage in mediation, to avoid incurring unnecessary expenses, and to allow the Plaintiff to be deposed and complete an IPE during his winter break, without an interruption to his education.

Dated: August 9, 2024.

Respectfully submitted,

/s/ Ryan M. Donovan

(electronically signed with permission)

Ryan M. Donovan (WVSB #11660)
Kayla S. Reynolds (WVSB #13268)
HISSAM FORMAN DONOVAN RITCHIE PLLC
P.O. Box 3983
Charleston, WV 25339
681-265-3802 *office*
304-982-8056 *fax*
rdonovan@hfdrlaw.com
kreynolds@hfdrlaw.com

/s/ Christopher K. Weed

Perry W. Oxley (WVSB #7211)
J. Jarrod Jordan (WVSB #10622)
Christopher K. Weed (WVSB #13868)
OXLEY RICH SAMMONS, PLLC
517 9th Street, Suite 1000
Huntington, WV 25701
(304) 522-1138
poxley@oxleylawwv.com
jjordan@oxleylawwv.com
cweed@oxleylawwv.com

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
HUNTINGTON DIVISION**

JOHN DOE,

Plaintiff,

Civ. Action No. 3:22-cv-00346

v.

**MARSHALL UNIVERSITY
BOARD OF GOVERNORS; and,
DEBRA HART, in her individual and official
capacity,**

Defendants.

CERTIFICATE OF SERVICE

The undersigned counsel for Defendant, Marshall University Board of Governors, served the foregoing **“JOINT MOTION TO VACATE CURRENT SCHEDULING ORDER AND CONTINUE TRIAL DATE”** by electronically filing the same with the Clerk of the Court using the CM/ECF system on this **9th day of August 2024.**

Ryan McCune Donovan
Kayla S. Reynolds
HISSAM FORMAN DONOVAN RITCHIE PLLC
P.O. Box 3983
Charleston, WV 25339
Counsel for Plaintiff

/s/ Christopher K. Weed

Perry W. Oxley (WVSB #7211)

J. Jarrod Jordan (WVSB #10622)

Christopher K. Weed (WVSB #13868)